

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

GARY W. MUFFLEY, Regional Director
of the Ninth Region of the NATIONAL
LABOR RELATIONS BOARD, for and on
behalf of the NATIONAL LABOR RELATIONS BOARD,

Petitioner,

v.

Civil Action No. 5:11-cv-00082

DYNAMIC ENERGY, INC.,
A SINGLE EMPLOYER WITH M & P SERVICES, INC.

Respondent.

MOTION FOR VOLUNTARY DISMISSAL

COMES NOW Counsel for the petitioner and respectfully moves the Court as follows:

Counsel for the Petitioner, Gary W. Muffley, Regional Director of the Ninth Region of the National Labor Relations Board, respectfully moves for the voluntary dismissal with prejudice of this case pursuant to Federal Rules of Civil Procedure 41 (a)(2). In support thereof, Petitioner states as follows:

1. On February 4, 2011, petitioner filed a petition pursuant to Section 10(j) of the National Labor Relations Act, as amended [61 Stat. 149; 73 Stat. 544; 29 U.S.C. § 160(j)], herein called the Act, seeking to enjoin and restrain Dynamic Energy, Inc., A Single Employer with M & P Services, Inc., herein called respondent, from engaging in certain acts and conduct in violation of the Act, pending the final disposition of the matters involved currently pending before the National Labor Relations Board, herein called the Board.

2. A hearing on the administrative Consolidated Complaint (Cases 9-CA-45772, 9-CA-46095, 9-CA-46096) in this matter was held before an administrative law judge of the Board on February 22 through 25 and on March 9 and 10, 2011, in Beaver, West Virginia.

3. Preliminary injunctive relief was granted by this Court on June 30, 2011.

4. On, August 10, 2011, the administrative law judge issued his Decision in the Board's underlying case, recommending all substantive remedies encompassed by the Court's June 30, 2011, temporary injunction.

5. No exceptions were taken to the decision of the administrative law judge and the Board issued an Order on September 30, 2011, in which it adopted the findings and conclusions of the administrative law judge as set forth in his decision and ordered that respondent take the actions set forth in the recommended Order of the administrative law judge.

6. Respondent has been in the process of compliance since about late August, 2011, including engaging in bargaining with respect to the M & P Services Unit and offering reinstatement to discharged employees Steven Paynter, Phillip Coleman II, Herrick Sean Sheppard, Jeremy Blankenship, Christopher Champagne, and Nathan Brown.

7. As a result of the Board's Order obviating and extinguishing the need for injunctive relief, petitioner seeks dismissal of the current matter before this Court.

8. Petitioner's counsel advised respondent's counsel by electronic mail of his intent to file this Motion for Voluntary Dismissal, with prejudice, on December 21, 2011.

9. Accordingly, petitioner respectfully moves that this Court grant its Motion to Voluntarily Dismiss the Petition with prejudice.

Dated at Cincinnati, Ohio this 30th day of December 2011.

Respectfully submitted,

/s/ Eric A. Taylor

Eric A. Taylor, Ohio Bar #0061169

Counsel for Petitioner

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CERTIFICATE OF SERVICE

December 30, 2011

I hereby certify that on December 30, 2011, I electronically filed the foregoing Motion for Voluntary Dismissal with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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